

Policies & Procedures for Wage Claim Processing

DIVISION OF LABOR STANDARDS ENFORCEMENT



INTRODUCTION

The purpose of this pamphlet is to provide a basic overview of the Division of Labor Standards Enforcement's (DLSE) wage claim process and to outline the basic filing, conference, hearing and appeal procedures. Since this guide is not meant to be a definitive statement regarding the processing of wage claims, parties are strongly urged to *read all forms* received by them throughout the process. *Failure to comply with each requirement of the process may result in the loss of important rights.*

SUMMARY OF THE PROCEDURES

Any employee who has a claim against his or her employer or former employer for unpaid wages or other compensation, which falls under the jurisdiction of the Labor Commissioner, may file a claim with DLSE which is under the direction of the State Labor Commissioner. The Labor Commissioner has no jurisdiction over those persons determined to be bona fide independent contractors or over employees of public agencies (for example, federal, state, county or municipal employees). In addition, based on California law and court decisions, the Labor Commissioner, in most cases, does not have jurisdiction over the wage claims of union members working under collective bargaining agreements which have a grievance procedure with an arbitration clause.

The Labor Commissioner, pursuant to the provisions of Labor Code Sections 98 and 98.3, has established procedures for investigating wage complaints, which may include either a conference pursuant to Section 98.3 or a hearing pursuant to Section 98(a), or both.

Sometimes claims are filed which are very complex and involve a large number of employees and records. Such claims will usually be investigated by DLSE's Bureau of Field Enforcement and not through the procedures described in this pamphlet. If this occurs, the parties will be so informed by the deputy handling the case. However, the majority of claims filed with

DLSE are resolved through Section 98.3 conferences and/or Section 98(a) hearings which are explained in this pamphlet.

FILING THE COMPLAINT

- An employee (claimant) alleging the non-payment of wages or other compensation by his or her employer (defendant), must file a claim with a local office of DLSE to initiate investigation of the claim by the Labor Commissioner. The time limit for filing a claim will be either two, three or four years from the date of the alleged non-payment, depending on the underlying employment agreement or the type of claim. Claimants are advised to file a claim as soon as possible after the alleged non-payment.

- When filing the claim, the claimant should provide as much information and documentation as possible, including the legal name, location, and status (method of doing business, i.e. sole proprietorship, partnership, corporation) of the defendant employer or former employer.

- After the claim is assigned to a Deputy Labor Commissioner (Deputy), he or she will determine, based on the circumstances of the claim, how best to proceed. Within thirty (30) days of the filing of the complaint, the Deputy shall notify the parties as to the specific action which will initially be taken regarding the claim:

- referral to a 98.3 conference
- referral to a 98(a) hearing
- dismissal of the claim

Not all cases will go to a conference before going to a 98(a) hearing. Moreover, many cases will be resolved informally before either a conference or a hearing is scheduled.

THE CONFERENCE (Section 98.3)

- If the decision has been made by the Deputy to hold

a conference, a Notice of Claim Filed & Conference will be sent to both parties which will describe the claim, provide the date, time and place of the conference, and will direct the parties that they are expected to attend. *The purpose of the conference is to determine if the claim can be resolved without a 98(a) hearing.*

- Both parties should bring any evidence or substantiation to support their positions. However, the parties will not be under oath and the conference will be conducted informally.
- If the defendant fails to appear at the conference, in most cases, the claim will be scheduled for a 98(a) hearing. If the claimant fails to appear, except for good cause shown, the claim will be dismissed.
- If the case is not resolved at the conference, the Deputy will evaluate the parties' positions and documentation and will determine the appropriate action with regard to the claim—usually referral to a 98(a) hearing or dismissal.
- If the defendant makes payment of the claim, or any part of the claim, directly to the claimant, the claimant must notify the Deputy. If the payment satisfies the claim in full, the case will be closed.
- The claimant may withdraw the claim, by written request to the Deputy, at any time before the conference or hearing.

THE 98(a) HEARING

- If a 98(a) hearing is scheduled (either after the claim is filed or after a conference), the parties will receive, either by certified mail or by personal service, a Notice of Hearing (or Notice of Claim Filed and Hearing if no conference is deemed appropriate) which will set the date, time and place of the hearing.
- Although 98(a) hearings are conducted in an informal setting, they are formal proceedings, as

opposed to the conference. At the 98(a) hearing the parties and witnesses testify under oath, and the proceedings are recorded

- Each party has the following basic rights at the hearing:
 1. To be represented by an attorney or other party of his or her choosing.
 2. To present evidence.
 3. To testify in his or her own behalf.
 4. To have his or her own witnesses testify.
 5. To cross-examine the opposing party and witnesses.
 6. To explain evidence offered in support of his or her position and to rebut evidence offered in opposition.
 7. To have a translator present if necessary.
- The Hearing Officer has sole authority and discretion for the conduct of the hearing. He or she may:
 1. Explain the issues and the meaning of terms not understood by the parties.
 2. Set forth the order in which persons will testify, cross-examine and give rebuttal.
 3. Assist parties in the cross examination of the opposing party and witnesses.
 4. Question parties and witnesses to obtain necessary facts.
 5. Accept and consider testimony and documents offered by the parties or witnesses.
 6. Take official notice of well-established matters of common knowledge and/or public records.
 7. Ascertain whether there are stipulations by the parties that may be entered into the record.
- The parties must bring all documents and/or records which will support their positions such as pay vouchers, employment contracts, correspondence or other information. If available, the original of all documents should be brought to the hearing.

- If a document or record a party needs is in the possession of someone else, the party may apply to DLSE for a subpoena, at least 10 days prior to the date of the hearing. The requesting party must submit, in writing, the reasons he or she feels the document is relevant and necessary. The issuance of the subpoena is within the discretion of the Hearing Officer, and the requesting party has the responsibility for service on the opposing party, including any costs incurred by such service.

- Both parties are entitled to have witnesses at the hearing. Each party may arrange for witnesses to attend voluntarily or may apply to DLSE, at least 10 days prior to the date of the hearing, for issuance of a personal subpoena compelling the witness's attendance at the hearing. The same rules applicable to the issuance of a subpoena for documents, as described above, apply to the issuance of witness subpoenas.

- The Hearing Officer in his or her discretion, may refuse to issue any subpoena for witnesses or documents that he or she feels is irrelevant or unnecessary.

- Changes in the date, time or place of the hearing will not be granted except upon the showing of extraordinary circumstances. The decision to grant such a request is within the sole discretion of the Hearing Officer and Senior Deputy and will be rare.

- If the claimant or a representative fails to attend the hearing, the case will be dismissed.

- If the defendant is served with a notice of hearing and fails to attend the hearing, the Hearing Officer will decide the matter on the evidence he or she receives from the claimant. (The hearing will not be rescheduled unless an application for relief under Labor Code Section 98(f) is granted.)

- The Hearing Officer is not bound by the rules of evidence and, therefore, has wide discretion in accepting evidence. He or she also has discretion in

deciding whether the assessment of penalties is appropriate in a particular case.

- Within fifteen (15) days after the hearing, the Order, Decision or Award (ODA) of the Labor Commissioner will be filed in the DLSE office and served on the parties shortly thereafter. The ODA will set forth the decision and the amount awarded, if any, by the Hearing Officer.

APPEAL TO CIVIL COURT

Either party, or both, pursuant to Labor Code Section 98.2, may appeal the Labor Commissioner's ODA to the Municipal or Superior Court, in accordance with the appropriate rules of jurisdiction. The party appealing may obtain a Notice of Appeal form from the Court or may request one from the DLSE office. The appeal must be filed in court within the time period set forth on the ODA, and a copy of the Notice of Appeal must be served on the Labor Commissioner and the opposing party. The court clerk will then set the matter for de novo hearing, which means that the judge will hear the case again with each party having the opportunity to present evidence and witnesses.

In the case of an appeal by the defendant, DLSE may represent a claimant, who is financially unable to afford counsel, in the appeal proceedings. The decision to represent the claimant is within the sound discretion of the assigned Deputy and the legal staff; the claimant must meet the financial criteria set forth by DLSE. The assigned Deputy will send to the claimant a Request for Attorney Representation along with a Statement of Financial Status which must be completed and returned to the DLSE office. If the claimant does not meet the requirements for representation, he or she will be notified in writing by the assigned Deputy of the reasons that DLSE will not be providing legal representation.

Lloyd W. Aubry, Jr.
State Labor Commissioner

Date:

State of California
Employment Development Department

Re: Case No. _____

Dear EDD:

I want to appeal the notice of determination sent to me on_____. I do not agree with the determination made, and wish to have a hearing on the matter. As I am Spanish-speaking, I am also requesting a Spanish-speaking interpreter.

Sincerely,

Claimant

Sección 226 del Código de Trabajo

Declaración de Salarios Detallada

(a) Cada patron debe dos veces al mes, o cada vez que paga salarios, entregar a cada uno de sus empleados ya sea como una parte que se puede desprender del cheque, como un borrador, como un vale pagando los salarios de los empleados, o separadamente cuando los salarios son pagados mediante cheque personal o en efectivo, un recibo detallado por escrito que muestre: (1) el salario bruto; (2) total de horas trabajadas por cada empleado cuando la compensación salarial está basada en pago por hora; (3) todas las deducciones siempre que todas las deducciones hechas sean sumadas y se muestren como uno solo; (4) el salario neto; (5) las fechas del período por la que le están pagando; (6) el nombre del empleado y su número de seguro social; y (7) el nombre y la dirección del patrón.

Las deducciones hechas cuando el pago es en efectivo deben ser registradas en tinta o de otra forma comprensible, deben tener la fecha apropiada, mostrando el mes, día y año, y una copia del recibo, o un registro de las deducciones debe ser mantenido en el expediente del patrón por lo menos tres años en el lugar de trabajo o en un lugar central dentro del Estado de California.

Un patron que está requerido por el código a cualquier regulación adoptada de acuerdo a este código de mantener la información requerida por esta sección debe permitir que sus empleados actuales y sus ex-empleados inspeccionen o copien los registros que corresponden a ese empleado siempre y cuando lo soliciten al patron. El patron debe tomar los pasos necesarios para asegurar la identidad de un empleado actual o de uno de ex-empleados. Si el patrón provee copias de los registros, el costo de reproducción debe correr a cargo del empleado.

Esta sección no se aplica a cualquier patrón o cualquier persona empleado por el dueño o ocupante de una casa de residencia cuyas obligaciones son incidentales a la propiedad, mantenimiento, o uso de la residencia, incluyendo el cuidado y supervisión de niños, o cuyas responsabilidades son personales y no en el curso de ningún comercio, negocio, profesión o ocupación del dueño o ocupante.

(b) Cualquier empleado que sufra lesión como resultado de que el patrón con conocimiento e intencionalmente no cumple con las provisiones de la subdivisión (a) tiene derecho a recuperar los daños actuales o cien dolares (\$100.00), el que sea mayor, mas costos y honorarios de abogados que sean razonables.

(c) Esta sección no se aplica al estado, o cualquier entidad de la ciudad, del condado, ciudad y condado, distrito o gubernamental.

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Note: Holidays may change subject to collective bargaining agreements.

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STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT



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INFORMATION AFTER JUDGMENT

HOW DO YOU FIND OUT ABOUT THE COURT'S DECISION?

When your small claims case has been decided, the court clerk will mail or deliver to you a form called the **Notice of Entry of Judgment**. The **judgment** or decision of the court appears on the front of the form. The court may have ordered one party to pay money to the other party. The winner of the case and the person who can collect the money is called the **judgment creditor**. The loser of the case and the person who owes the money is called the **judgment debtor**.

Enforcement of the judgment is **postponed** until after the time for appeal ends or until after the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until after this period is over. Generally, both sides may be represented by lawyers after judgment.

WHAT HAPPENS IF YOU LOSE THE CASE?

1. If you lose the case on your own claim and the court does not award you any money, the court's decision on your claim is **FINAL**. You may not appeal your own claim.
2. If you lose the case and the court orders you to pay money, your money and property may be taken to pay the claim unless you do one of the following things:

a. PAY THE JUDGMENT

The law requires you to pay the amount of the judgment. You may also ask the court to order monthly payments you can afford. Ask the clerk for information about this procedure.

b. APPEAL

If you disagree with the court's decision, you may appeal the decision *on the other party's claim*. You may not appeal the decision on your own claim. If you appeared at the trial, you *must* begin your appeal by filing a form called a **Notice of Appeal** within **20 days** after the date this Notice of Entry of Judgment was mailed or delivered to you. Your appeal will be in the superior court. You will have a **new trial**. You may be represented by a lawyer.

c. VACATE (OR CANCEL) THE JUDGMENT

If you did not go to the trial, you may ask the court to vacate (or cancel) the judgment. To make this request, you must file a **Motion to Vacate the Judgment** *within 30 days* after the date this Notice of Entry of Judgment was mailed or delivered to you. If your request is denied, you then have **10 days** from the date the motion was denied to appeal the denial.

The period to file the **Motion to Vacate the Judgment** is **180 days** if you were *not properly served* with the claim. The 180-day period begins on the date you found out or should have found out about the judgment against you.

WHAT HAPPENS IF YOU WIN THE CASE?

1. If you were sued by the other party and you win the case, then the other party may not appeal the court's decision.
2. If you win the case and the court awards you money, here are some steps you may take to collect your money or get possession of your property:

a. COLLECTING FEES

Sometimes fees are charged for filing court papers or for serving the judgment debtor. These extra costs can become part of your original judgment. To claim these fees, ask the clerk for a **Memorandum of Costs**.

b. VOLUNTARY PAYMENT

Ask the judgment debtor to pay the money. If your claim was for possession of rental property, ask the judgment debtor to move out. **THE COURT WILL NOT COLLECT THE MONEY OR ENFORCE THE JUDGMENT FOR YOU.**

c. STATEMENT OF ASSETS

If the judgment debtor does not pay the money, the law requires the debtor to fill out a form called the **Judgment Debtor's Statement of Assets**. This form will tell you what property the judgment debtor has that may be available to pay your claim. If the judgment debtor willfully fails to send you the completed form, you may ask the court to impose penalties.

d. ORDER OF EXAMINATION

You may also make the debtor come to court to answer questions about income and property. To do this, ask the clerk for an **Order of Examination**. There is no fee for this order, but there is a fee if a law officer serves the order on the judgment debtor.

e. WRIT OF EXECUTION

After you find out about the judgment debtor's pro-

perty, you may ask the court for a **Writ of Execution**. A writ of execution is a court paper which tells a law officer to take property of the judgment debtor to pay your claim. Here are some examples of the kinds of property the officer may be able to take: **wages, bank account, automobile, business property, or rented property**. For some kinds of property, you may need to file other forms. See the law officer for information.

f. ABSTRACT OF JUDGMENT

The judgment debtor may own land or a house or other buildings. You may want to put a lien on the property so that you will be paid if the property is sold. You can get a lien by filing an **Abstract of Judgment** with the County Recorder in the county where the property is located. The recorder will charge a fee for the Abstract of Judgment.

g. AFTER PAYMENT

If you are paid in full, you must fill out a form called an **Acknowledgment of Satisfaction of Judgment**. The form is located on the back of the Notice of Entry of Judgment. When you have filled out the form, you must mail it to the court *immediately* or you may be fined. If an Abstract of Judgment has been recorded, you must use another form. See the clerk for the proper form.

Addendum To: INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

SOME RULES ABOUT THE DEFENDANT
DIRECTORY OF BUSINESS/CORPORATIONS

If the defendant is a business/corporation and you do not know the exact legal name, you may consult the following offices:

FICTITIOUS NAMES

Office of the County Clerk
Corporation Division
Room 106, County Courthouse
111 N. Hill St.
Los Angeles, CA 90012
(213) 974-5221

BUSINESS LICENSES

City of Los Angeles
Office of the City Clerk
Tax and Permit Division
Room 101, City Hall
200 N. Spring St.
Los Angeles, CA 90012
(213) 626-9271

City of San Fernando
Office of the City Clerk
117 MacNeil
San Fernando, CA 91340
(818) 898-1211

DRY CLEANERS

State of California
Board of Fabric Care
1020 North Street
Sacramento, CA 95814
(800) 620-4130

CONTRACTORS

State of California
Contractors License Board
107 S. Broadway
Los Angeles, CA 90012
(213) 620-4180

HOW DOES THE DEFENDANT FIND OUT ABOUT THE CLAIM
SERVICE OF PROCESS

1. Service to be valid must be made within the state of California. (Code of Civil Procedure 116.4). Exception: Non-Resident owners of Real Property can be served out of state.
2. The defendant must receive a copy of your claim no less than five (5) days before the hearing date if he/she lives within the County and no less than fifteen (15) days before the hearing date if the defendant lives outside the County/State. (Code of Civil Procedure 116.4)
3. The Marshal's Office will deliver your claim to the defendant upon payment of a \$20.00 service fee/defendant. Their offices in the L.A. Judicial District are:

LOS ANGELES
Room 525
County Courthouse
110 N. Grand Avenue
Los Angeles, CA 90012
(213) 974-6311

SAN FERNANDO
900 Third St.
San Fernando, CA 91340
(818) 898-2420

SAN PEDRO
505 S. Centre
San Pedro, CA 90731
(213) 519-6026

VAN NUYS
14401 Delano Street
Van Nuys, CA 91409
(818) 901-3841

WEST LOS ANGELES
1633 Purdue Avenue
WLA, CA 90025
(213) 312-6508

WHITE OAK
5767 White Oak
Encino, CA 91316
(818) 708-4297

4. If someone other than a peace officer or the court personally deliver a copy of your claim to the defendant, that person must complete, sign and file at least three days prior to the hearing date a DECLARATION OF PERSONAL SERVICE (Form No. SC-7) with the Small Claims Office.
5. If the Court attempts service by certified mail the fee is \$4.00 and must be mailed by the clerk in the Small Claims Office.

HOW TO GET HELP WITH YOUR CASE

The Department of Consumer Affairs offers the following two programs to assist you in your claims:

1. Small Claims Advisors
2. Dispute Settlement Service

CIVIC CENTER OFFICE
Room B-96
Hall of Administration
500 W. Temple St.
Los Angeles, CA 90012
(213) 974-9759/9765

EAST LOS ANGELES
133 N. Sunol Drive
East Los Angeles,
CA 90063
(213) 260-2893

FLORENCE FIRESTONE
7807 S. Compton Ave.
Los Angeles,
CA 90001
(213) 586-6508/6509

INGLEWOOD COURTHOUSE
Room 620
1 Regent St.
Inglewood, CA 90301
(213) 419-5165

LANCASTER
1150 West Avenue J
Lancaster, CA 93534
(805) 948-5030

SAN GABRIEL
3017 Tyler Avenue
El Monte, CA 91731
(818) 575-5425

VALENCIA
23747 W. Valencia Blvd.
Valencia, CA 91355
(805) 253-7328

VAN NUYS
14617 Victory Blvd.
Van Nuys, CA 91411
(818) 901-3829/3820

SANTA BAY/LOMITA CENTER
(213) 325-1035

INFORMATION SHEET ON WAIVER OF COURT FEES AND COSTS

(California Rules of Court, Rule 985)

If you have been sued or if you wish to sue somebody, and if you cannot afford to pay court fees and costs, you may not have to pay if:

1. You are receiving **financial assistance** under one or more of the following programs:
 - SSI and SSP (The Supplemental Security Income and State Supplemental Payments Programs)
 - AFDC (The Aid to Families with Dependent Children Program)
 - The Food Stamps Program
 - County Relief, General Relief (G.R.) or General Assistance (G.A.)

—OR—

2. Your gross monthly income is less than the following amounts:

NUMBER IN FAMILY	FAMILY INCOME
1	\$ 654.17
2	877.09
3	1,100.01
4	1,322.92
5	1,545.84
6	1,768.75
7	1,991.67
8	2,214.59

—OR—

3. Your income is not enough to pay for the common necessities of life for yourself and the people you support and also to pay court fees and costs.

To apply, fill out the Application for Waiver of Court Fees and Costs available from the clerk's office.

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (listed in the yellow pages under "Attorneys").

If you are asking for review of the decision of an administrative body under Code of Civil Procedure section 1094.5 (administrative mandate), you may ask for a transcript of the administrative proceedings at the expense of the administrative body.

— THIS FORM MUST BE KEPT CONFIDENTIAL —

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): 	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF or PETITIONER: DEFENDANT or RESPONDENT:		
<div style="border: 1px solid black; border-radius: 15px; padding: 5px; text-align: center;"> APPLICATION FOR WAIVER OF COURT FEES AND COSTS </div>		
		CASE NUMBER

I request a court order so that I do not have to pay court fees and costs.

1. My address and date of birth are (specify):

2. ☐ I am receiving financial assistance under one or more of the following programs:
- a. ☐ **SSI and SSP:** The Supplemental Security Income and State Supplemental Payments Programs
 - b. ☐ **AFDC:** The Aid to Families with Dependent Children Program
 - c. ☐ **Food Stamps:** The Food Stamps Program
 - d. ☐ **County Relief, General Relief (G.R.) or General Assistance (G.A.)**

[If you checked box 2 above, sign at the bottom of this side and DO NOT fill out the rest of the form.]

3. ☐ My gross monthly income is less than the amount shown on the Information Sheet on Waiver of Court Fees and Costs available from the clerk's office.

[If you checked box 3 above, skip 4, complete 5 and 6 on the back of this form, and sign at the bottom of this side.]

4. ☐ My income is not enough to pay for the common necessities of life for me and the people in my family I support and also pay court fees and costs. *[If you checked this box you must complete the back of this form.]*

WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. For the next three (3) years you may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

..... (TYPE OR PRINT NAME)

(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): 	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
NAME OF COURT, JUDICIAL DISTRICT OR BRANCH COURT, IF ANY:		
PLAINTIFF: DEFENDANT:		
ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS		CASE NUMBER:

1. The application was filed
 - a. on (date):
 - b. by (name):
2. ☐ **IT IS ORDERED THAT** the application is granted and the applicant is permitted to proceed in this action as follows:
 - a. ☐ without payment of any court fees or costs listed in rule 985(i), California Rules of Court.
 - b. ☐ without payment of any court fees or costs listed in rule 985(i), California Rules of Court, except the following:
 - c. ☐ without payment of the following court fees or costs (specify):
 - d. The reasons for denial of any requested waiver are (specify):
 - e. ☐ The clerk of the court is directed to mail a copy of this order to the applicant's attorney, if any, or to the applicant if unrepresented.
 - f. ☐ All unpaid fees and costs shall be deemed to be taxable costs if applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid to the clerk upon such recovery.
3. ☐ **IT IS ORDERED THAT** the application is denied for the following reasons (specify):
 - a. The applicant must pay any fees and costs due in this action within ten days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.
 - b. The clerk of the court is directed to mail a copy of this order to all parties who have appeared in this action.
4. ☐ **IT IS ORDERED THAT** a hearing be held.
 - a. The substantial evidentiary conflict to be resolved by the hearing is (specify):

b. Applicant should be present at the hearing to be held:

hearing date:	time:	in <input type="checkbox"/> Dept.:	<input type="checkbox"/> Div.:	<input type="checkbox"/> Rm.:	address of court:
---------------	-------	------------------------------------	--------------------------------	-------------------------------	-------------------

- c. The clerk of the court is directed to mail a copy of this order to the applicant only.

Dated:

(Clerk's certification on page 2)

(Signature of Judge)

Inmigrante --

¡¡ Conozca Sus Derechos !!

En este período de temor y confusión, recuerde -- *todos, con o sin papeles, tenemos ciertos derechos básicos.*



Si usted es detenido e interrogado por agentes de la policía, la migra, u otras autoridades, tiene el derecho de no contestar las preguntas que le hacen. Puede identificarse con su licencia de manejar o su ID del estado de California, pero *no pueden obligar que usted conteste preguntas sobre su nacionalidad o si tiene papeles.*



Si es acusado de un crimen, es importante que *insista en hablar con un defensor público u otro abogado* para proteger sus derechos legales. No se declare culpable sin entender las consecuencias que esto puede tener en su caso de inmigración.

Lea el otro lado para más información sobre sus derechos. Recuerde -- *¡de nada sirven los derechos si no los conocemos y usamos!*

*

La Coalición pro Derechos Humanos del Inmigrante en Los Angeles
CHIRLA

Inmigrante ; Conozca Sus Derechos !

SUS DERECHOS LEGALES

Toda persona, *con o sin papeles*, tiene derecho constitucional a mantener silencio y no contestar preguntas de la migra o la policía. Es ilegal que la migra o la policía amenace, detenga, interrogue, o revise los documentos de personas solo porque son de aspecto latino o hablan español.

Según la ley, la migra tiene que tener prueba que usted no es de este país para poder deportarlo. *Por ejemplo*, la migra puede usar lo siguiente contra usted:

- ▶▶ si usted corre y la migra lo captura,
- ▶▶ si usted le dice a la migra donde nació o que no tiene papeles,
- ▶▶ si usted carga documentos falsos, como un seguro social o una tarjeta verde falsa,
- ▶▶ si usted carga documentos de su país.

Es mejor dar su nombre verdadero a agentes de la migra si lo detienen o interrogan, para que un abogado o amigo lo pueda buscar, en caso de que sea arrestado. Es bueno cargar identificación de California (un "ID" o una licencia de manejar), la cual no tiene información sobre su país de origen.

ES PELIGROSO USAR DOCUMENTOS FALSOS

Siempre ha sido ilegal usar documentos falsos o documentos que no son de usted. Pero ahora, una nueva ley tiene *castigos aun más serios* para los que usan documentos falsos. Esto incluye papeles de inmigración, seguro social, licencias para manejar, y otras tarjetas de identificación.

Si agentes de la migra lo agarran con documentos falsos en la bolsa o cartera, o si la migra viene a su trabajo y se entera de que usted usó documentos falsos para conseguir el trabajo, la migra puede usar la nueva ley en contra usted. Si lo agarran con documentos falsos,

- ▶▶ puede que prohíban que usted nunca arregle papeles para vivir legalmente en los EE.UU. (esta prohibición le afecta aun si ya tiene papeles buenos),
- ▶▶ lo pueden deportar, y
- ▶▶ le pueden dar una multa de hasta \$2,500.

Si el Servicio de Inmigración lo acusa de usar documentos falsos, **NO FIRME NINGUN PAPEL SIN HABLAR CON UN ABOGADO.** Bajo la nueva ley, el castigo dura toda la vida; nunca va a poder arreglar sus papeles de inmigración para vivir legalmente en los EE.UU. Debe exigir una audiencia con un juez y buscar ayuda legal inmediatamente.

Si tiene papeles buenos, pero usó papeles falsos o un seguro social falso en el pasado, **DEJE DE USAR LOS DOCUMENTOS FALSOS INMEDIATAMENTE.** Vaya con su patrón y verifique que su archivo contiene la información correcta.

EN CASO DE QUE LA MIGRA LO ARRESTE,

Tiene derecho a no firmar la salida voluntaria. En algunos casos, lo más conveniente puede ser aceptar la salida voluntaria, porque esta no aparece en su "récord" si regresa a los EE.UU. *Sin embargo, los que tienen posibilidades de arreglar su situación legal no deben firmar ningún documento sin consultar con un abogado. ESPECIFICAMENTE, NO FIRME:*

- ▶▶ si tiene miedo de regresar a su país,
- ▶▶ si ha vivido en los EE.UU. durante 7 años,
- ▶▶ si miembros de su familia inmediata tienen amnistía u otros papeles,
- ▶▶ si ya tiene trámites de inmigración pendientes, o
- ▶▶ si lo están acusando de usar documentos falsos.

También tiene los siguientes derechos:

Continuar en silencio y no contestar preguntas. Si no ha contestado ninguna pregunta sobre su nacionalidad o su estado migratorio, hay que mantenerse firme y no darles la evidencia que necesitan para deportarlo.

Exigir la oportunidad de hacer una llamada por teléfono a un familiar o abogado. (**MEMORICE LOS NUMEROS DE TELEFONO DE SU FAMILIA Y DE SU ABOGADO.**)

Salir bajo fianza y tener una audiencia para rebajar la fianza si no la puede pagar.

Recibir una lista de agencias que dan servicio legal gratuito.

Tener una audiencia ante un juez donde puede ser representado por un abogado o por sí mismo. En la audiencia, puede pedir la salida voluntaria. Si el juez decide que sea deportado, usted puede apelar la decisión, mientras, tiene derecho a permanecer en el país.

PARA MAS INFORMACION LEGAL:

CARECEN (para centroamericanos)
(213) 483-6868/(800) 231-7718

One Stop Immigration
(213) 268-8472

El Rescate (para centroamericanos)
(213) 387-3284/(800) 354-6459

Oficina de Derechos del Inmigrante
(213) 487-6551

International Institute
Los Angeles - (213) 264-6210
Van Nuys - (818) 988-1332
San Gabriel - (818) 307-1084

Servicios Legales del Valle de San Fernando
(818) 890-2406

DERECHOS EN EL TRABAJO

- ▶▶ Todas las personas, *con o sin papeles*, tienen derecho a recibir salario por el trabajo que hagan. Si no le ha prometido un salario más alto, el patrón tiene que pagar el **salario mínimo -- \$4.25 por hora, y \$6.38 por cada hora más de 8 horas en un día ("tiempo extra")**.
- ▶▶ Es ilegal que un patrón le quite parte de su sueldo porque le dio de comer o donde dormir, sin haber firmado un contrato por escrito.
- ▶▶ Si un patrón no le ha pagado lo que le debe, puede reclamar. Llame al (213) 389-3581 para más información y consejo legal.
- ▶▶ Es ilegal que los patrones le nieguen trabajo por su aspecto extranjero o por su acento, o porque ellos no reconocen su permiso de trabajo. Si usted tiene autorización para trabajar en los EE.UU. y sospecha que lo han discriminado, llame al número abajo.

SOLICITANTES DE LA AMNISTIA

- ▶▶ Si usted recibió la residencia temporal basado en su residencia en los EE.UU. desde antes de 1982, necesita solicitar la residencia permanente **ya**. Si no la solicita, usted volverá a ser ilegal.
- ▶▶ **No espere** hasta terminar su curso requerido de inglés para solicitar la residencia permanente. **Solicite ahora** y complete sus estudios mientras espera su cita para la entrevista. Hay muchos cursos GRATIS aprobados en su comunidad.
- ▶▶ Si usted solicitó la amnistía por el campo, su residencia temporal se convertirá en residencia permanente el 1º de diciembre de 1990. **Hay que solicitar su tarjeta permanente en la oficina de legalización.**
- ▶▶ Como residente temporal, usted califica para ciertos servicios públicos de salud. Estos no le perjudican en sus trámites. Enseñe su tarjeta de residente temporal a la trabajadora social o de salud para solicitar estos beneficios.
- ▶▶ Si salió positivo en la prueba del SIDA, todavía puede calificar para la amnistía, pero tiene que solicitar un "perdón". Llámenos para saber los requisitos.
- ▶▶ Si usted tiene amnistía, puede ser que su cónyuge y sus hijos menores de 18 años sin amnistía califiquen para la "unidad familiar". Hable con una agencia comunitaria o un abogado sobre los requisitos, *porque si se les niega, pueden ser deportados.*

INMIGRANTE CONOZCA SUS DERECHOS

INFORMACION: (800) 346-2536

CHIRLA - La Coalición Pro Derechos Humanos
del Inmigrante en Los Angeles



SUS DERECHOS LEGALES

- ▶▶ Todas las personas, *con o sin papeles*, tienen el derecho constitucional a mantener silencio y no contestar preguntas de la migra o la policía. Es ilegal que la migra o la policía amenace, detenga, interroge, o revise los documentos de personas solo porque son de aspecto latino o hablan español.
- ▶▶ Según la ley, la migra tiene que tener prueba que usted no tiene papeles para poder deportarlo. *Por ejemplo*, la migra puede usar lo siguiente contra usted:
 - ▶▶ si usted corre y la migra lo captura,
 - ▶▶ si usted le dice a la migra donde nació o que no tiene papeles,
 - ▶▶ si usted carga documentos de su país.
- ▶▶ Es mejor dar su nombre verdadero a agentes de la migra si lo detiene o interroga, para que un abogado o amigo lo pueda buscar, en caso de que sea arrestado. Es bueno cargar identificación de California (un "ID" o una licencia de manejar), el cual no tiene información sobre su país de origen.

EN CASO DE QUE LA MIGRA LO ARRESTE, USTED TIENE DERECHO A:

- ▶▶ No firmar la salida voluntaria. **NO FIRME:**
 - ▶▶ si tiene miedo de regresar a su país,
 - ▶▶ si ha vivido en los EE.UU. durante 7 años, o
 - ▶▶ si miembros de su familia tienen amnistía.
- ▶▶ Continuar en silencio y no contestar preguntas.
- ▶▶ Exigir la oportunidad de hacer una llamada por teléfono a un familiar o abogado. (**MEMORICE LOS NUMEROS DE TELEFONO DE SU FAMILIA Y DE SU ABOGADO.**)
- ▶▶ Salir bajo fianza y tener una audiencia para rebajar la fianza si no la puede pagar. Llame al (213) 399-7153.
- ▶▶ Recibir una lista de agencias que dan servicio legal gratuito.
- ▶▶ Tener una audiencia ante un juez donde puede ser representado por un abogado o por sí mismo. Si el juez decide que sea deportado, usted puede apelar la decisión dentro de 10 días, mientras, tiene derecho a permanecer en el país.

PARA MAS INFORMACION:

En el Condado de Los Angeles:

CARECEN (para centroamericanos)
(213) 483-6868/(800) 231-7718

El Rescate (para centroamericanos)
(213) 387-3284/(800) 238-3721

International Institute
Los Angeles -- (213) 264-6210
Van Nuys -- (818) 988-1332
San Gabriel -- (818) 307-1084

Oficina de Derechos para Inmigrantes
(213) 487-6551

Servicios Legales del Valle de San Fernando
(818) 890-2406

En el Condado de Orange:

Caridades Católicas
(714) 662-7500

En el Condado de Ventura:

El Concilio de Ventura
(805) 486-4587

En el Condado de San Diego:
Centro de Asuntos Migratorios
Chula Vista -- (619) 426-6620
El Centro -- (619) 353-5940

En San Bernardino:
Inland Counties Legal Services
(714) 884-8614

rev. 8/90

Page Number 2
May 20, 1992

By Day and Country

9. Riot Aliens by
Country of birth:

Total Interviewed

ARMENIA	1
BELIZE	3
COSTA RICA	2
CUBA	5
EL SALVADOR	97
GUATEMALA	58
HONDURAS	33
ITALY	1
MEXICO	747
NICARAGUA	6
PHILIPPINES	1
RUSSIA	1
Total---	<u>955</u>

Processed for removal

ARMENIA	0
BELIZE	3
COSTA RICA	1
CUBA	4
EL SALVADOR	81
GUATEMALA	44
HONDURAS	27
ITALY	1
MEXICO	681
NICARAGUA	4
PHILIPPINES	0
RUSSIA	0
Total---	<u>846</u>

05/22/92 15:19 MEXIC/ CONSULATE 213 624-895

P.0



UNITED STATES DEPARTMENT OF JUSTICE IMMIGRATION AND NATURALIZATION SERVICE

300 N. LOS ANGELES ST., LOS ANGELES, CA 90012

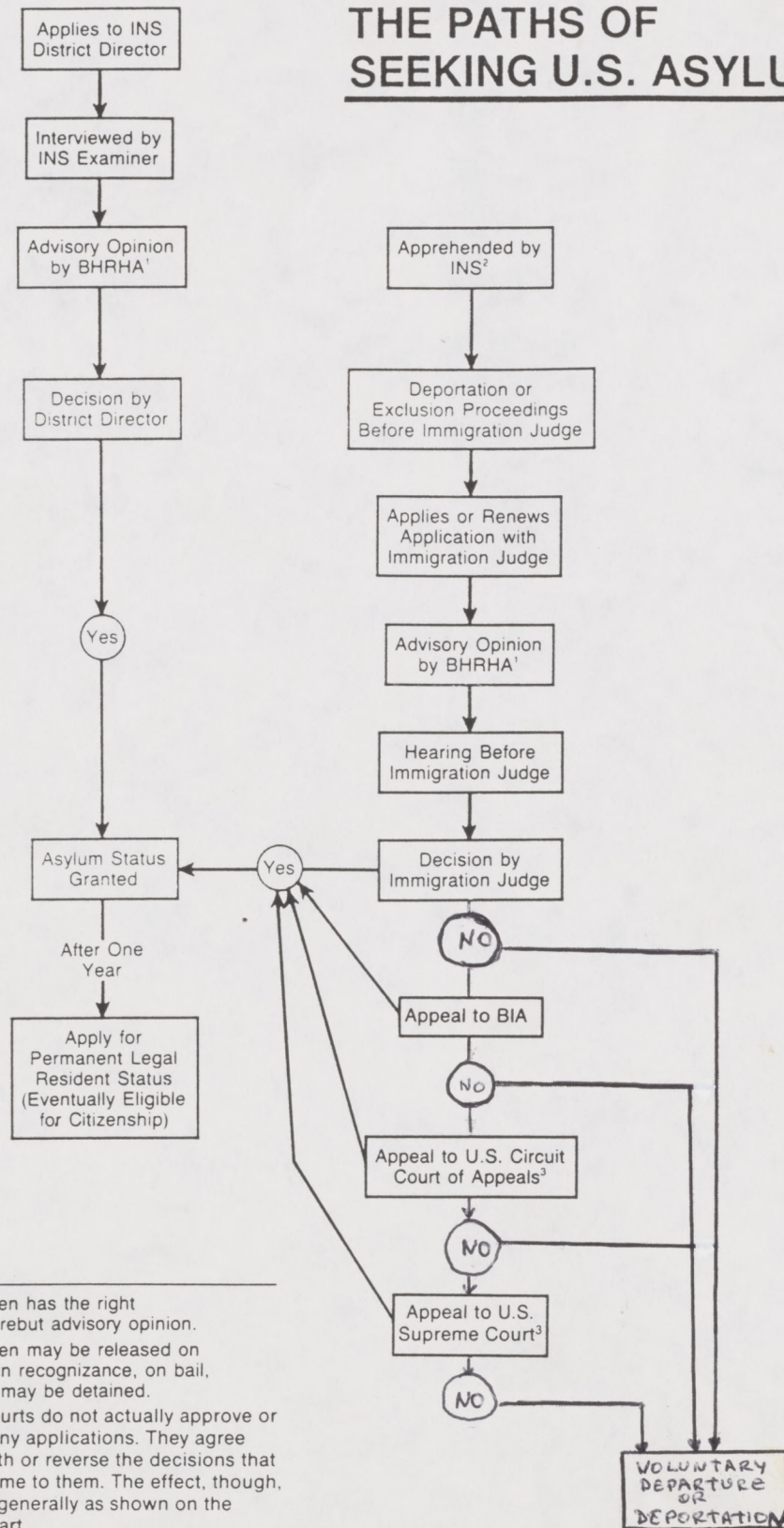
FROM THE OFFICE OF THE
DISTRICT DIRECTOR

Page Number 1
May 20, 1992

LOS ANGELES DISTRICT USINS RIOT ALIENS PROCESSED

	May 19	Totals
1. Aliens arrested at LAPD deployment sites ----	0	332
2. Total Riot Aliens released to INS custody from LACJ with detainer -----	22	425
3. Total Riot Aliens released to INS custody from LACJ with NO detainer -----	1	198
4. Total Aliens received from LACJ/LAPD/OTHER --	23	955
4a. Less: Released from Custody (Not Deportable) -----	0	109
5. Total Deportable Riot Aliens processed -----	23	846
5a. Total OSC/WA -----	22	127
5b. Total Voluntary Returns -----	1	719
6. Aliens in INS custody T.I. -----	33	261
6a. OSC/WA (awaiting hearing) -----	13	117
6b. VR (awaiting travel documents) ---	20	144
7. Aliens transferred to other INS facilities outside LOS -----	50	192
8. Aliens removed from the United States -----	13	826
8a. Departed -----	0	64
8b. V/R -----	13	762

THE PATHS OF SEEKING U.S. ASYLUM



¹ Alien has the right to rebut advisory opinion.

² Alien may be released on own recognizance, on bail, or may be detained.

³ Courts do not actually approve or deny applications. They agree with or reverse the decisions that come to them. The effect, though, is generally as shown on the chart.

ESTAMPILLAS DE COMIDA

Si usted perdio su comida en el disastre, o su comida fue danada despues del disastre, en ciertos casos usted puede obtener estampillas de comida extra de un mes para reemplacer la comida perdida. Hable con el Trabajador del Condado.

Tambien, si usted no recibio estampillas de comida antes de ahora, pero si ya las necesita, usted puede aplicar y recibirlas dentro de 3 dias si usted tiene menos que \$100.00 en efectivo, y va recibir menos de \$150.00 en ingreso para el mes; o si usted no puede pagar su renta; o si usted esta sin hogar.

PARA LOS RECIPIENTES DE SSI

Circunstancias Especiales de SSI -

Dinero para reemplacer posesiones perdidas en el disastre, para mudarse, o para arreglar dano a su hogar.

- costos de mudanza y almacenaje (hasta \$200.00); reparaciones a su hogar; hipoteca (hasta \$750.00); depositos de renta (hasta \$300.00); ropa (hasta \$113.00); estufa, refrigerador, aparatos de calefaccion (hasta \$405.00 en total); cama (\$143.00); muebles esenciales (\$50.00).

CONCESION DE SSI PARA COMIDA DE RESTAURANTE

Un aumento de \$65.00/mes en su cheque de SSI para recipientes de SSI quienes no tienen facilidades adecuadas para cocinar.

Aplique a la oficina de la Administracion de Seguro Social.

AYUDA GENERAL

Para Adultos Sin Ninos -

- A causa del disastre, usted puede recibir un comprobante de hasta \$55.50 para reemplacer ropa.
- Si su vivienda fue destruida por el disastre, usted puede recibir hasta \$219.00 para renta. Usted recibira menos si usted vive con otra gente.
- Recipientes de Ayuda General son elegibles para aplicar y recibir estampillas de comida.

PARA AYUDA CON ESTOS PROGRAMAS, COMUNIQUESE CON:

LAFLA - Oficina de Sur Central, 8601 S. Broadway, (213) 971-4102
LAFLA - Oficina de Pico Union, 1550 W. 8th St., (213) 487-7609
LAFLA - Oficina del Este de Los Angeles, 5228 Whittier Blvd., (213) 266-6550
LAFLA - Oficina de Beneficios Gobiernos, (213) 389-3581
Servicios Legales de la Comunidad - 11550 Rosecrans Ave., Norwalk, (310) 864-9935
Servicios Legales de la Comunidad - Oficina de Compton: vaya a la Oficina de Norwalk o llame a LAFLA
Fundacion de Ayuda Legal de Long Beach, 110 Pine Street, Ste. 420, Long Beach, (310) 435-3501
Servicios Legales de San Fernando Valley, 13327 Van Nuys Blvd., Pacoima, (818) 896-5211

[Más información al reberzo de esta hoja!]

PROGRAMAS DE EMERGENCIA PARA AYUDAR LAS VICTIMAS DEL DISASTRE

Los beneficios publicos siguientes estan disponible a las victimas del disastre. Estos beneficios estan aparte de, y en adicion a, cualquier ayuda de FEMA. El Departamento de Bienestar Publico del Condado de Los Angeles (DPSS) esta encargado de todos estos beneficios, (direccion al dorso de este papel volante) (con la excepcion de la concesion de SSI para comida de restaurante, desempleo y Victimias de Crimenes de Violencia).

PARA FAMILIAS CON NINOS:

AFDC Necesidades Especiales de Ocurrencias Especificas -

Si usted recibe AFDC y esta una victima del disastre, usted puede recibir hasta \$600.00 para necesidades especiales para: mudanza y costos para almacenaje; vivienda temporaria; reparaciones de hogar; ropa (hasta \$25.00 para cada persona); necesidades para la cocina, el bano, las recamaras, como sabanas, toallas, platos, et. cetera. (hasta \$12.00 para cada persona); estufa (hasta \$142.00); refrigerador (hasta \$190.00) aparatos de calefaccion (hasta \$73.00); cama (hasta \$143.00) muebles esenciales (hasta \$50.00).

Para recibir AFDC Necesidades Especiales usted tiene que tener menos de \$100.00 en ahorros.

AFDC ASISTENCIA PARA GENTE SIN HOGAR -

Si usted esta sin hogar, tiene no mas que \$100.00 y parece eligible para AFDC usted puede recibir:

Dinero para Vivienda Temporaria: \$30.00 cada dia para hasta 16 dias.

Dinero para Pagar el Costo de Mudanza:

- renta del ultimo mes, depositos para limpieza y servicio de utilidades
- usted tiene que encontrar un lugar para rentar
- La parte del dinero para renta que se la toca su familia tiene que ser menos de 80% de los fondos que se les van a otorgar:

\$260.00/mes para una familia de 1

\$530/mes para una familia de tres, etc.

AFDC DE NECESIDAD INMEDIATA

- aplicantes para AFDC con menos que \$100.00 y en una emergencia pueden obtener:
- Hasta \$200.00 para el dia siguiente; o cheque completo dentro de 3 dias para las persona con una noticia de desalojo (incluyendo noticia de 3 dias o 30 dias)

Esto es un pago de AFDC adelanto, y sera deducido del primero cheque de AFDC.

BENEFICIOS DE DESEMPLEO A CAUSA DEL DISASTRE

Para Cualquier Persona que No Tiene Trabajo -

Si usted perdio su empleo o no puede trabajar, o si el que se gana la vida en su familia fue matado usted puede ser eligible para hasta 26 semanas de beneficios de desempleo. Personas que trabajan para si mismos tambien estan eligibles. El pago maximo semanal es \$230.00. Usted tiene que aplicar por el 5 de junio de 1992. Aplique a EDD o al Centro de Asistencia del Disastre.

\$ PARA VICTIMAS DE CRIMENES DE VIOLENCIA

Por medio de Ayuda para Victimias de Crimenes de Violencia, las personas pueden ser compensadas para servicios medicos y rehabilitativos y perdida de ingreso. Concesiones de emergencia hasta \$1,000.00 son disponibles para perdida de ingreso en los primeros 90 dias. El crimen tiene ser reportado a la policia para cualificar. Los beneficios estan disponibles a inmigrantes sin documentos. Usted puede obtener formas para aplicar si usted llame a 1-800-777-9229, o irse a las cortes o departamento del sherrif o policia.

[Más información al reberzo de esta hoja!]



Can I get help even if I'm not a U.S. citizen?

Federal and state financial disaster assistance is available for those who suffered damages during the fires and civil unrest beginning in Los Angeles April 29.

- You do not have to be a citizen of the United States in order to receive help at the several Disaster Application Centers set up throughout Los Angeles County.
- Information is confidential and will not be shared with other federal agencies. Help is available for everyone who suffered eligible losses.
- Applicants will not risk their request for legal residency under the Amnesty Program if they apply for or receive disaster assistance.
- For details call:

Disaster information hot line-- **1-800-525-0321**
TDD hot line for hearing impaired-- **1-800-660-8005**



Puedo recibir ayuda aunque no sea ciudadano americano?

La asistencia financiera del estado y del gobierno federal, esta al alcance de todos aquellos que han sufrido danos y perdidas debido a los incendios y desordenes civiles, que empesaron en Abril 29.

- No es necesario que usted sea ciudadano de los EEUU, para poder recibir ayuda a traves de uno de los varios Centros de Aplicacion para Desastres, establecidos en el Condado de Los Angeles.
- Toda la informacion sera tratada confidencialmente y no sera compartida con otras agencias federales. La ayuda esta disponible para todos aquellas personas que sufrieron perdidas a causa del desastre.
- Ninguna persona pondra en riesgo su solicitud de residencia legal bajo el Programa de Amnistia, si aplica o recibe asistencia por razon del desastre.
- Para mas informacion, llame al:

1.800.525.0321 El numero gratis (HOTLINE) para informacion
1.800.660.8005 Para personas con dificultad de oir (TDD)